

**Australian Clearing House Pty Limited
ASX Settlement and Transfer Corporation Pty Limited**
**Legal terms for the provision of a trade acceptance service
to Australian financial market licensees
in respect of CHESS-eligible ASX-quoted securities**

Information Handling Standard

This document is provided in draft form for the information of interested parties. The ASX group reserves the right to make changes to the document prior to final publication and accepts no liability for any loss or damage incurred by any person who relies on the information presented in this draft document.

Preamble

ASX Limited (ASXL) is the holder of an Australian financial market licence and the operator of Australia's main cash market for equity securities.

Australian Clearing House Pty Limited (ACH) is the central counterparty and clearing facility for ASXL's market and provides all clearing and counterparty risk management services.

ASX Settlement and Transfer Corporation Pty Limited (ASTC) is the securities settlement facility for ASXL's market and provides all settlement and asset registration services.

ACH and ASTC each hold an Australian CS facility licence under the Corporations Act. ACH and ASTC are regulated by the Australian Securities and Investments Commission and the Reserve Bank of Australia.

Each of ACH and ASTC has established arrangements with ASX Markets Supervision Pty Limited (ASXMS) for supervising their respective clearing and settlement facilities.

ASXL is the ultimate holding company of ACH, ASTC and ASXMS. An extract of the ASX Group corporate structure chart, which illustrates the corporate relationship between these entities, is contained in Schedule 1.

The functions of the Boards of ASXL, ACH, ASTC and ASXMS are set out in ASXL's Board Charter, which is available at: <http://www.asx.com.au/about/governance/index.htm>

Under the Operating Rules of ACH and ASTC an Australian market licence holder can apply to become an Approved Market Operator (AMO). ASXL is an AMO.

ACH and ASTC provide clearing and settlement arrangements which include services to AMOs and to parties to transactions in relation to CHESSE-eligible ASX-quoted securities. There are two categories of service relating to these clearing and settlement arrangements:

1. a service to be provided by a CS facility licence holder to AMOs, being the acceptance of transactions effected through that AMO's trade facility for clearing and settlement in the CS facility (Trade Acceptance Service); and
2. a clearing and settlement service provided to the participants of ACH and ASTC, being post-trade processing of transactions in CHESSE-eligible ASX-quoted securities effected in accordance with the Operating Rules of an AMO.

ACH and ASTC propose to provide a Trade Acceptance Service to AMOs under the *Legal terms for the provision of a trade acceptance service to Australian financial market licensees in respect of CHESSE-eligible ASX-quoted securities* (Legal Terms of Service). The Legal Terms of Service provide that if ACH or ASTC acquire actual knowledge of competitively sensitive information in the course of providing the Trade Acceptance Service, they will implement, in accordance with the standards promulgated under the Legal Terms of Service, appropriate safeguards (to be determined in their absolute discretion) to protect that information from disclosure to ASXL.

This information handling standard is promulgated by ACH and ASTC under the Legal Terms of Service as a standard for the protection of confidential information (including competitively sensitive information) of AMOs which the ASX Group may acquire in connection with the provision of a Trade Acceptance Service.

This Preamble is provided for the assistance of the reader and does not form part of the information handling standard.

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Information Handling Standard

1. Interpretation

Capitalised terms used in this information handling standard have the meanings given to them in clause 7 (Glossary).

2. Purpose, scope and application

The ASX Group recognises that AMOs may disclose AMO Confidential Information to the ASX Group:

- for the purpose of determining whether to acquire a Trade Acceptance Service from ACH and ASTC;
- in the course of applying for approval as an AMO under the Operating Rules of ACH and ASTC;
- in the course of agreeing to be bound by the Legal Terms of Service;
- in the course of acquiring a Trade Acceptance Service or
- in seeking to reach an agreement with ACH and ASTC to expand or enhance a Trade Acceptance Service.

The purpose of this information handling standard is to establish a transparent framework for handling confidential information disclosed to the ASX Group by AMOs which operate trade execution platforms for CHESS-eligible ASX-quoted securities.

The ASX Group recognises that certain AMO Confidential Information may also be AMO Conflict Sensitive Information.

In relation to AMO Conflict Sensitive Information, this information handling standard seeks to balance:

- the need to ensure that the potential for conflicts on the part of ASX Group Directors or ASX Group Employees, resulting from the receipt of AMO Conflict Sensitive Information, is appropriately managed; and
- the need to ensure that ACH and ASTC continue to comply with their respective statutory obligations as CS facility licensees.

The statutory obligations referred to above include but are not limited to:

- the governance requirements applicable to ACH under the Financial Stability Standard for Central Counterparties (extracted in Schedule 2).¹ In particular, this information handling protocol seeks to ensure that restrictions on the flow of information do not adversely affect:
 - the ability of the Boards of ACH and ASTC to continue to provide oversight of the operations of the clearing and settlement facilities; or
 - the risk-control functions of ACH and ASTC's clearing and settlement facilities; and

¹ While the Financial Stability Standard for Securities Settlement Facilities contains no equivalent governance provisions, the more detailed requirements of the Financial Stability Standard for Central Counterparties are treated for the purposes of this protocol as setting the applicable standard of governance for both ACH and ASTC.

- the obligation of a CS facility licensee under section 821A(c) of the Act to have adequate arrangements for supervising its clearing and settlement facility.

This information handling standard applies to the provision by AMOs of AMO Confidential Information (including AMO Conflict Sensitive Information) to the ASX Group and the protection and use of that information by the ASX Group.

3. Commencement

This information handling standard takes effect on the date specified by ACH and ASTC.

4. Protection of AMO Confidential Information

The ASX Group will use the same degree of care (but no less than a reasonable degree of care) to prevent AMO Confidential Information being disclosed to third parties as the ASX Group uses to protect its own confidential information of a similar nature.

However, the ASX Group may disclose AMO Confidential Information:

- if required by law or by any order or notice of a court, tribunal, authority or regulatory body including in relation to the supervision of a financial market or clearing and settlement facility (as defined under the Act); or
- with the written approval of the AMO.

5. Submission and screening of AMO Conflict Sensitive Information

An AMO which seeks to share AMO Conflict Sensitive Information with any member of the ASX Group in connection with the provision of a Trade Acceptance Service should provide the information in writing to the Special Counsel – Conflicts Handling and not to any ASX Group Director or any ASX Group Employee or by any other means. This applies irrespective of:

- whether the document containing the AMO Conflict Sensitive Information also contains other information;
- whether an ASX Group Employee (other than the Special Counsel – Conflicts Handling) has asked for the information, or the AMO considers that the ASX Group requires the information, in connection with the provision of a Trade Acceptance Service;
- the specific purpose for which the AMO seeks to share the information with the ASX Group.

Any AMO Conflict Sensitive Information which an AMO provides to the Special Counsel – Conflicts Handling should be clearly marked as “AMO Conflict Sensitive Information” and accompanied by a statement of:

- the purpose for which the information is being provided to the ASX Group; and
- the ASX Group Employees to whom the AMO wishes the information to be provided.

The ASX Group takes no responsibility for the unauthorised use or distribution of AMO Conflict Sensitive Information which is submitted to the ASX Group otherwise than in accordance with this information handling standard.

The Special Counsel – Conflicts Handling will screen all information submitted to him or her to confirm that the information is AMO Conflict Sensitive Information. If the Special Counsel – Conflicts Handling determines that the information is not AMO Conflict Sensitive Information, he or she will advise the AMO and take no further action in relation to the information other than to return the information to the AMO if the AMO so directs. If the Special Counsel –

Conflicts Handling determines that the information is AMO Conflict Sensitive Information, he or she will distribute it in accordance with clause 6 (Distribution and use of AMO Conflict Sensitive Information).

6. Distribution and use of AMO Conflict Sensitive Information

If the Special Counsel – Conflicts Handling determines that information submitted to him or her in accordance with clause 5 (Submission and screening of AMO Conflict Sensitive Information) is AMO Conflict Sensitive Information, he or she will distribute it as follows:

ASX Group Employees

AMO Conflict Sensitive Information will be distributed only to those ASX Group Employees:

- to whom the AMO has requested the Special Counsel – Conflicts Handling to provide the information;
- who require the information in connection with the provision or potential provision of a Trade Acceptance Service to the AMO, as determined by the Special Counsel – Conflicts Handling in consultation with the ASX Office of General Counsel; or
- who require the information in the ordinary course of performing their role in connection with the discharge of regulatory obligations of the ASX Group (including, without limitation, ASX Group Employees who need access to AMO Conflict Sensitive Information for the purpose of preparing reports required to be given to the Australian Securities and Investments Commission or the Reserve Bank of Australia).

ASX Group Directors

Subject to two exceptions, AMO Conflict Sensitive Information shall not be distributed to ASX Group Directors.

Exception 1 – AMO Conflict Sensitive Information may be distributed to the directors of ACH and ASTC where:

- the information is reasonably required by the directors in order for them to provide oversight of the operations of the clearing and settlement facilities; or
- the information is relevant to the risk-control function of the clearing and settlement facilities.

Directors of ACH and ASTC may sit on other ASX Group Boards. Directors of ACH and ASTC may not use the AMO Conflict Sensitive Information of an AMO for the purposes of ASXL without the consent of that AMO.

No ASX Group Employee who is a member of ASX's Business Development function (other than the General Manager, Clearing & Settlement Services) shall be present during any Board consideration of AMO Conflict Sensitive Information pursuant to this exception.

Exception 2 – AMO Conflict Sensitive Information may be distributed to the directors of ASXMS (including those directors who also sit on other ASX Group Boards) where the information is relevant to the supervision of ACH and ASTC's clearing and settlement facilities.

Board Papers which are to be presented to the Board of ACH, ASXCC, ASTC or ASXMS in reliance on either of the foregoing exceptions shall:

- be submitted to the Special Counsel – Conflicts Handling in draft for review prior to distribution to directors; and
- clearly state on the first page that they contain AMO Conflict Sensitive Information.

7. Glossary

The following definitions apply in this standard:

ACH means Australian Clearing House Pty Limited (ACN 001 314 503).

Act means the Corporations Act 2001 (Cth).

AMO means the holder of an Australian market licence (as defined in s. 761A of the Act) which has been approved, or which has submitted an application to be approved, as an “Approved Market Operator” for the purposes of the Operating Rules of ACH and ASTC.

AMO Confidential Information means information in any written form (whether it is stored electronically or in hard copy) which is received by the ASX Group from an AMO and is confidential to the AMO, but does not include information which:

- (a) was in the possession of the ASX Group before receipt from the AMO;
- (b) is or becomes a matter of public knowledge through no fault of the ASX Group;
- (c) is received by the ASX Group from a third party without a duty of confidentiality; or
- (d) is independently developed by the ASX Group without the use of confidential information received from the AMO.

AMO Conflict Sensitive Information means AMO Confidential Information which:

- (a) relates to the future business plans or potential initiatives, in respect of market services in Australia, of an AMO; and
- (b) is marked by the AMO as “AMO Conflict Sensitive Information”.

ASTC means ASX Settlement and Transfer Corporation Pty Limited (ACN 008 504 532).

ASXCC means ASX Clearing Corporation Limited, a wholly owned subsidiary of ASXL and the intermediate holding company of ACH (ACN 087 801 554).

ASXL means ASX Limited (ACN 008 624 691).

ASX Group means ASX and all of its subsidiaries (as defined in the Act) from time to time.

ASX Group Director means any director of one or more of ASXL, ASXMS, ACH, ASXCC and ASTC.

ASX Group Employee means an employee of the ASX Group.

ASXMS means ASX Markets Supervision Pty Limited (ACN 087 780 489).

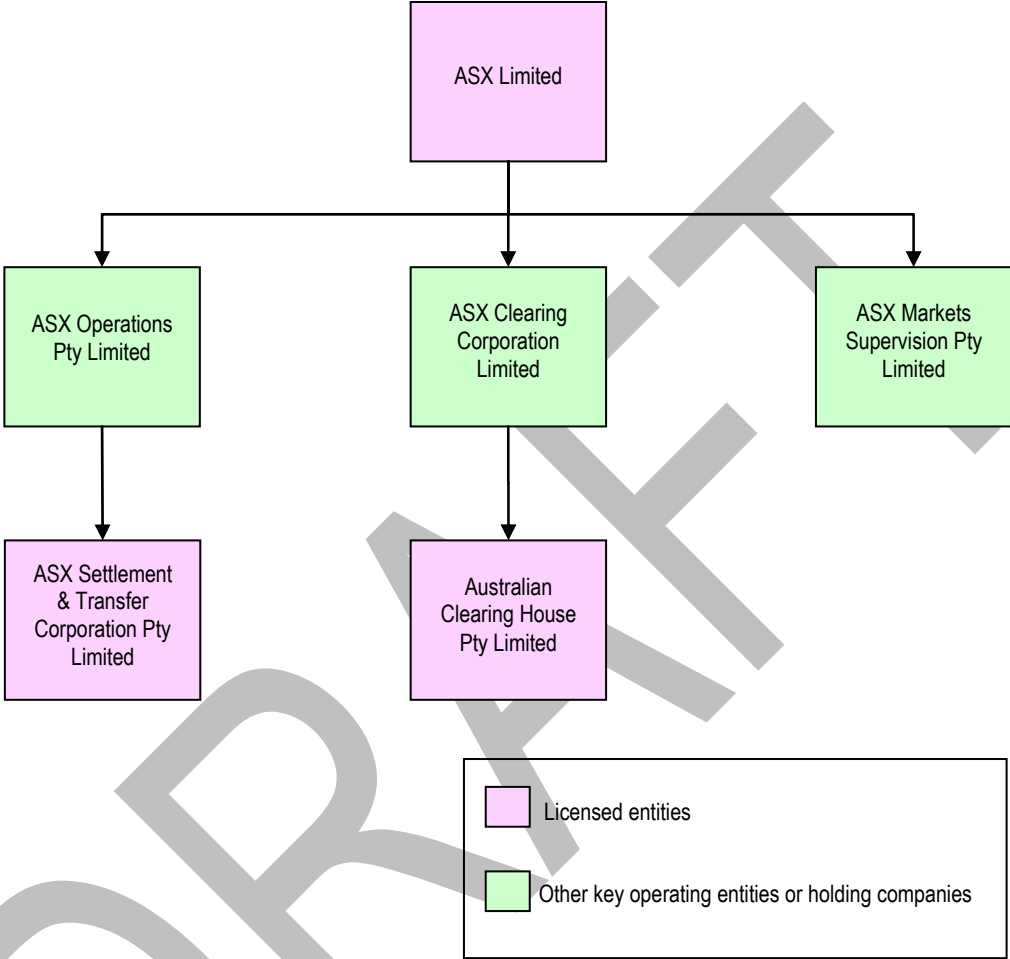
Legal Terms of Service means the *Legal terms for the provision of a trade acceptance service to Australian financial market licensees in respect of CHESSE-eligible ASX-quoted securities* dated [●], as amended from time to time.

Operating Rules has the meaning given to that term in s. 761A of the Act.

Special Counsel – Conflicts Handling means the ASX Group employee who from time to time holds the position of Special Counsel – Conflicts Handling or any similarly designated position.

Trade Acceptance Service means the trade acceptance service as defined in the Legal Terms of Service.

Schedule 1
ASX Group (extract)



Schedule 2

Financial Stability Standard for Central Counterparties (extract)

8. *Governance*

The central counterparty must have effective, accountable and transparent governance arrangements. This requires that:

- (a) the board of the CS facility licensee have appropriate expertise and independence;*
- (b) the board of the CS facility licensee be responsible for oversight of the operation of the central counterparty; and*
- (c) the risk-control function of the central counterparty must not be adversely influenced by its business, marketing or other operations.*

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